

William Brandon Cummings,
v.
Plaintiff

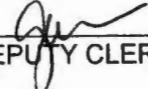
J. Schickvam; V. Blommel; B. Testen; Steve Barratta;
Andrew Newton; J. McCord; D. Foulds;
C.O. Kopinski; J. Tedesco; C. Ramos-Lopez;
D. McCoy; J. Maul; Jonathan Simpson; D. Maul;
Kevin Bly; William Purnell; P. Moser;
Ricky Vasquez; J. Gutierrez; ~~Do~~ John
Doe 1; John Doe 2; P. Ferguson; J. Powers; John Connolly;
Schade; D. Drum; Dr. Chuma; Weller; Sadler;
David Warren; J. Conquest; S. Thompson; C. Lyons;
John Doe 3; John Doe 4; John Doe 5; John
Doe 6; John Doe 7; John Doe 8; John Doe 9;
John Doe 10, individually and in their official
capacities

Defendants

Complaint
Civil Action No.
1821-CV-1006

FILED
SCRANTON

JUN - 7 2021

PER 
DEPUTY CLERK

- ① This is a civil action authorized by 42 U.S.C. Section 1983 to redress the deprivation, under color of state law, of rights secured by the Constitution of the United States. The court has jurisdiction under 28 U.S.C. section 1331 and 1343(a)(3). Plaintiff seeks declaratory relief pursuant to 28 U.S.C. section 2201 and 2202. Plaintiff's claims for injunctive relief are authorized by 28 U.S.C. Section 2283 and 2284 and Rule 65 of the Federal Rules of Civil Procedure.
- ② The Middle District of Pennsylvania is an appropriate venue under 28 U.S.C. Section 1391(b)(2) because it is where events giving rise to this claim occurred.

③ Plaintiff, William Brandon Cummings, is and was at all times mentioned herein a prisoner of the Commonwealth of Pennsylvania in the custody of the Pennsylvania Department of Corrections (DOC), currently confined in SCI-Frackville, in Frackville, PA.

④ Defendants, Andrew Newton, Jonathan Simpson, Kevin Bly, William Purnell, P. Moser, John Doe 1, John Doe 2, John Doe 3, John Doe 4, ~~John Doe 5~~, John Doe 5, John Doe 6, ~~John Doe 6~~, John Doe 7, John Doe 8, John Doe 9, John Doe 10, J. Schickram, V. Blommel, B. Testen, J. McCord, P. Foulds, T. Kopinski, J. Tedesco, C. Ramos-Lopez, D. McCoy; J. Maul; D. Maul; Ricky Vasquez; J. Gutierrez; C.O. Beech; P. Ferguson; Powers; Schade; D. Drum; Dr. Chuma; C.O. Weller; Counselor Sadler; David Warren; J. Conquest; S. Thompson; C. Lyons; are legally responsible for the operation and for the welfare of all the inmates in the Behavior Management Unit at SCI-Fac Frackville. (BMU), John Connolly as well

⑤ Defendants Andrew Newton and Dr. Chuma were psychology staff at all times ~~is~~ mentioned in this complaint. Simpson, Bly, Purnell, and Moser, ^{Connolly} ~~were~~ and McCoy were all either shift commander or direct supervisor of the BMU at SCI-Frackville. Schickram, Blommel, Testen, McCord, Foulds, Kopinski, Tedesco, Ramos-Lopez, J. Maul, D. Maul, Vasquez, Gutierrez, Beech, Ferguson, Powers, Schade, Drum, Weller, Lyons, Sadler, Warren, Conquest, Thompson, John Doe 1-10 were all staff in the BMU and were assigned thereat on the days these events happened.

⑥ Each defendant is sued individually and in his official capacity. At all times mentioned in this complaint each defendant acted under the color of state law.

FACTS

- ① DC-ADM Policy 13.8.1, ~~states~~: section 2 - Constant watch, states. all personal clothing shall be removed from inmate and an anti-suicide smock and BLANKET shall be provided.
- ② On several occasions Dr. Newton refused the Plaintiff a blanket in direct violation of DC-ADM 13.8.1 and all staff herein are to be trained and they are to know each Policy governing the BMU also known as the Psychiatric Observation Cell (POC). Dr. Newton purposely and with knowledge of the violation of Policy 13.8.1, refused to provide Plaintiff with the blanket. And when Plaintiff begged staff to provide blanket, staff more often than not that refused to provide blanket by laughing, refusing him food, literally & torturing inmate. There is a culture of this sort of torture at SCI-Frankville approved by Bly, Simpson, Purnell and Moser as direct supervisors of the BMU/POC as well as McCoy. In approximately January 2020, when there was a deep freeze in Pennsylvania, when the arctic blast came down from Canada Dr. Newton ^{saw} refused the Plaintiff a blanket. The POC cell the Plaintiff was in, Number 2 and 3, had major cracks in the roof and window; so the Plaintiff was in the POC cell in below freezing temperatures for several nights while each Defendant herein laughed and refused him blanket requests and food at times. The Plaintiff specifically told defendants Schickram, Blommel, Testen, McCord, Foulds, Kopinski, Tedesco, Ramos-Lopez, McCoy, Maul, Simpson, Vasquez, Gutierrez, John Doe 1-10, Ferguson, its Freezing in here I'm cold, its

been days and no one had given me a blanket yet you guys burn me for my food, please get me a blanket and some food, all requests were ignored for the blanket and food was given sometimes with each defendant named stating, just leave the POC. I was being punished for asking for help at SCI-Frankville. I have a history of mental health and each defendant knows this and tortured me because of it. Its general knowledge staff at SCI-Frankville refuse black inmates blankets in the POC.

③ BMU/POC staff refuse inmates showers, tooth paste, tooth brush, soap, and grooming materials in order to coerce inmates out of the BMU/POC, so they can go back to general population or solitary confinement and commit suicide. All inmates are allowed grooming materials per policy, but the inmate must give them back when finished with them, but staff at SCI-Frankville refuse these materials regardless, if you're a black inmate.

④ These issues were brought to the administration by grievance numbers 847968, 863076, 866682, 866804, 868748, 868755, 868942, 870731, 791355, 820376. Every single grievance I've appealed except one, was never responded to. Grievance 791355 was never responded to once POC Central Office remanded it. It is policy that inmates are to sign for all grievances and responses, but the record will show I never signed for any response by the remand grievance numbered at 791355. Several "on-call" psych staff, John Doe 1-10, refused blanket, showers, grooming material as well, violating 13.8.1 and knew it, purposely doing it. John Doe 2 misstaff too.

⑤ Staff purposely refuse to document at SCI-Frankville. I have several documents that prove staff, constantly, sabotage the grievance process and misconduct process. (Please note I know misconducts can't be used here, but they have to in this case because it shows the pattern of due process violations by staff at SCI-Frankville, they sabotage both grievance and misconducts.) Staff have refused to give the Plaintiff responses to both misconduct and grievance, in order to sabotage said process, which the Plaintiff is entitled to have per DC-APM Policies 801 and 804. Plaintiff was even refused legal mail and was stopped sending mail to Delaware County, PA for his case he's in prison for. It's general knowledge staff here does this.

⑥ On several occasions in the BMU starting in approximately January 2019, staff started doing pat searches on the Plaintiff's skin unnecessarily and against POC policy, just to harass the Plaintiff, all which are on camera. This was done to purposely make the Plaintiff upset and to antagonize. Plaintiff begged staff not to do this, but they'd done it anyway, ordered by William Punnell. Pat searching a naked inmate serves no purpose other than sexual gratification for the officers or to further torture inmate.

⑦ Lack of showers and food resulted in the Plaintiff getting several bumps, filled with puss on his arms, face, legs and chest and loss of weight. The POC cell are filthy

Case 1:21-cv-01006-MCC Document 1 Filed 06/07/21 Page 6 of 19
And the Plaintiff received ant bites on his arms as well as spider bites, both resulting in bumps his puss, that left marks and hurt like hell. There was even a mouse in the POC. A doctor ordered, hydrocortisol creme, for the bumps a few months ago, but the bumps never went away.

~~There are~~ EXT EXHAUSTION OF LEGAL REMEDIES

① Plaintiff, William Cummings, used the grievance procedure at SCT-Frankville to try to solve this problem in the BMU/POC. Grievances were filed on March 2019, August 2019, January 2020, May 2020, 6/20 all of which were sabotaged by staff at SCT-Frankville and/or not answered to, and if they were answered Plaintiff never received a copy of the response. Its policy that all inmates are to sign for all grievance and appeals thereto at SCT-Frankville, and Plaintiff never had a chance to fully pursue these claims in SCT-Frankville due to the sabotaging of staff, they violated the Plaintiffs due process right to. For ~~purposes~~ purposes of exhaustion Plaintiff has exhausted any and all available remedies in the POC and the only available remedy is this lawsuit.

Legal Claims

① Plaintiff was tortured by staff in the BMU/POC starting in 2018 until 2020 by being refused blankets, food, and mattresses by POC named Benin. Pr. Chuma was begged for blankets, food, and mattresses but refused as well, he'd been asked by Plaintiff for showers, soap, tooth paste, and tooth paste and refused. Sabotaging my legal case I'm in prison for by stopping my mail from going out of prisoner

Case 1:21-cv-01006-MCC Document 1 Filed 06/07/21 Page 7 of 19
② No blanket, clearly violate 8th Amendment to the U.S. Constitution, as well as the refusing of showers, food, bug bites, refusing of mattresses, refusing of grooming materials.

③ This is only done to black inmates and SCI-Frankville has a history of refusing black inmates these essential items, based solely on skin color. Unnecessary touching is an 8th Amendment violation on bare skin.

④ The 14th Amendment is violated here clearly by staff at SCI-Frankville refusing to answer and/or provide the plaintiff the documents needed to exhaust all available remedies in the DOC, provided by state law.

⑤ The plaintiff has no plain, adequate or complete remedy at law to redress the wrongs described herein. Plaintiff has been and will continue to be irreparably injured by the conduct of the defendants unless this court grants the declaratory and injunctive relief which plaintiff seeks.

PRAYER FOR RELIEF

WHEREFORE, plaintiff respectfully prays that this court enter judgment granting plaintiff:

① A declaration that the acts and omissions described herein violated plaintiff's rights under the Constitution and laws of the United States. I am requesting in forma pauperis status, as well.

② A preliminary and permanent injunction ordering all defendants named herein to stop refusing inmates blankets, food, appeals to DC-APM 801 and 804.

③ Plaintiff seeks compensatory and punitive damages in the amount this court and a jury seems fit to deter this behavior.

④ A jury trial on all issues triable by jury.

⑤ Plaintiff's ~~costs~~ costs in this suit.

⑥ Any additional relief this court deems just, proper and equitable.

Dated: 6/3/21 WLL

Respect Fully Submitted,

William Brandon Cummings GX8328

1111 Altamont Blvd

Frankville, PA 17219

Verification

I have read the foregoing & complaint and hereby verify that the matters alleged therein are true, except ~~to~~ as to matters alleged on information and belief, and, as to those, I believe them to be true. I certify under penalty of perjury that the foregoing is true and correct.

Executed at Frankville, PA on 6/3/21

WLL

William Cummings

EXHIBIT
A

27

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER CC: OVR, OSI, BII, GOW, WOLF, RDS, SEC. Wetzel		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) D. Hine / mail room supervisor		2. Date: 5/28/20	
3. By: (Print Inmate Name and Number) William Cummings 6X8328 W Inmate Signature		4. Counselor's Name:	
		5. Unit Manager's Name:	
6. Work Assignment:		7. Housing Assignment: E131027	
8. Subject: State your request completely but briefly. Give details.			
ms Hine once again COs here have stopped my mail from going out the central office, claiming I used all of the envelopes. Can you please make sure this letter gets to central office. And actually I have 2 envelopes left to use, but I'm not going to. Thanks.			
ps Did you mail the 3 I sent you a few days ago when they did this same exact nonsense? I never received your response from the request. Please respond, Thanks R.			
9. Response: (This Section for Staff Response Only)			
MR CUMMINGS, IT WILL BE MAILED OUT TODAY, I DONT REMEMBER BUT IF THEY AB WERE NOT RETURNED. THEY PROBABLY WERE.			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	
STAFF MEMBER NAME <u>Hine</u> Print		<u>HINE</u> Signature	
		DATE <u>6-1-20</u>	

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER ed: Chief Grievance Officer, OPR, OSFF, BIF, PREA Compliance Coord. Central Office, Robt. Wenzel, Sec. Wetzel, Gov. Wolf RECEIVED		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) T. Newberry MAY 19 2020		2. Date: 5/15/20	
3. By: (Print Inmate Name and Number) William Cummings 6X8328 SCI-Frackville Superintendent's Office W Inmate Signature		4. Counselor's Name: 5. Unit Manager's Name:	
6. Work Assignment:		Housing Assignment: E31027	
8. Subject: State your request completely but briefly. Give details. I need some grievance appeal forms for the facility manager, I need 15 and I need 15 Chief Grievance Officer appeal forms, 15. That's 2nd & 3rd level grievance appeal forms, 15 each. COs back here do not know what they are and they do not hand them out when asked, especially CO Kramer, he'd give me 3rd level grievance forms when I'd asked for 2nd level forms, he probably can't read that well. Please send them via MS Styka, I trust she'll give them to me. Also the recited grievance 867470, this is not meant to be a PREA complaint, these COs are just bizarre in what they do. On grievance 864269 Wynder responds to that grievance stating COs interact w/ me using a female voice etc., that's not what I'd said, I'd stated they use some sort of microphone device that comes into their cell and they make themselves sound like females, it's all really bizarre. But anyway, you can withdraw the 867470 grievance all together b/c it's not a PREA, I have 3 in already and I'm not trying to saturate those guys w/ PREAs when I know it's hard to prove words, especially when they have on mask-n-w. But the camera does not lie, the unnecessary pat searches are a home run! So thanks in advance, sorry			
9. Response: (This Section for Staff Response Only) For all of this, just tell them to transfer me. You need to address the above listed grievances & appeals. I sent them to Ms. Styka to print for you.			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	
STAFF MEMBER NAME Newberry Print		DATE 5/20/20 Signature	

RECEIVED

DC-141, Part 2 (E)

COMMONWEALTH OF PENNSYLVANIA

Misconduct Hearing Appeal

APR 02 2020

DC Number

EX8328

Name

William Cummings

Facility

FRA

No. From Part 1

I was found guilty of misconduct number ³ ~~DC~~ 76582 on 3/31/20
(date)

by the Hearing Examiner, and I wish to appeal that decision on the following grounds.

Check Area(s) Involved

- ☒ a. the procedures employed were contrary to law, Department directives, or regulations;
- ☒ b. the punishment is disproportionate to the offense; and/or
- ☒ c. the findings of fact were insufficient to support the decision.

Below is a brief statement of the facts relevant to my claims(s). It includes the identity of all persons who may have information that may be helpful in resolving this matter.

The misconduct hearing was NOT held within 7 working days after it's SERVED. It is a clear violation of DC ADM 801. ~~IT MUST BE DISMISSED~~ ~~PER DC ADM 801~~ It must be dismissed per DC ADM 801. The misconduct was served on 3/11/20 and the hearing wasn't held until 3/31/20, that 20 days later. I was on no restriction ~~that~~ for more 13 of the 20 days. CO Kenton refused to take me to the hearing for personal reasons. None of this was my person's fault. This misconduct must be dismissed. Hopefully the PRC committee receive this appeal and answer it. I'm having problems with misconduct appeals as of late, no one is answering them nor am I receiving any response. I even told CO Kenton I'd like to go to the hearing on the 24th & 26th of March, 2020, but he refused to take me there, please look at the video for this cell EB1023 on March 26, 2020 at approx 12pm when Kenton and CO O'Boyle refused me the opportunity to go to the hearing. This misconduct must be dismissed, he violated my person's due process. Kenton sabotaged my hearing. Also per policy my person was given an aggregate of 60 plus days DC-time, I'm a code "C" on the mental health roster and cannot receive more than 30, please in the alternative run all DC time concurrent from 3/10/20, to be within policy. ~~RECEIVED~~ ~~APR 02 2020~~

W. C. Cummings

Inmate's Signature

4/1/20

Date

cc: Chief Hearing Examiner

DC-ADM 801, Inmate Discipline Procedures Manual

Section 5 – Appeals

Issued: May 20, 2015

Effective: July 2, 2015

Attachment 5-A

DC-141, Part 2 E Misconduct Hearing Appeal		COMMONWEALTH OF PENNSYLVANIA DEPARTMENT OF CORRECTIONS	
DC Number 6X8328	Name William Cummings	Facility FKA	No. From Part 1

I was found guilty of misconduct number 0521712 - on 5/14/20 (date)

by the Hearing Examiner, and I wish to appeal that decision on the following grounds:

Check Area(s) Involved

☒ a. the procedures employed were contrary to law, Department directives, or regulations;

☒ b. the punishment is disproportionate to the offense; and/or

☒ c. the findings of fact were insufficient to support the decision.

Below is a brief statement of the facts relevant to my claims(s). It includes the identity of all persons who may have information that may be helpful in resolving this matter.

I still have the same matter that need resolving and want the same relief as the initial appeals. I still have the Facility Manager, the misconduct was not served according to the DC-ADM 801, on the actual misconduct neither power box is checked for "Forms Given to Inmate" this is a clear violation of DC-ADM 801, the misconduct must be dismissed based on this. Neither PRC or the Facility Manager addressed this matter, per policy the misconduct must be dismissed. Also the misconduct states a cell inspection was done but on the CLK it states a general search was done. This is contradictory and insufficient to support the decision of guilt b/c the CO who actually issued the misconduct is confused as to what he did, it's obvious. No photos appeared at the hearing of the sheet or fishing line. The CO was needed to bring clarity to the hearing, either he searched or inspected, there's a major difference between the 2. Per DC-154 I'm supposed to be present during a general search, I was in the shower, this policy is violated as well. I'm confused and I stated this at the misconduct hearing this is why the inmate version is needed because the HEX failed to state my confusion, had I received the inmate version it would be herein. If COs don't need to serve the misconduct with the inmate version and without representation form please let me know, a memo change must come from Central office giving inmates notice, which I haven't received. I'm just still really confused about this whole process, why no one addressed the fact that those forms weren't given but the HEX did not dismiss and the fact both PRC & the Facility Manager try to justify these violations are wholly outrageous and confused. No policy is quoted by either only some carefully put together words, totally ignoring the clear violations. I have a liberty interest in

W.C.

6/3/20

Inmate's Signature Date

White - DC-15 Yellow- Inmate

Revised 2/01 pending.

Form DC-135A		Commonwealth of Pennsylvania Department of Corrections	
INMATE'S REQUEST TO STAFF MEMBER CC: OPR, OSI, BIF, RDS, Sec. Weitzel, Gov. Wolf, DOJ, Personal File		INSTRUCTIONS Complete items number 1-8. If you follow instructions in preparing your request, it can be responded to more promptly and intelligently.	
1. To: (Name and Title of Officer) Supt. Brittain		2. Date: 6/10/20	
3. By: (Print Inmate Name and Number) William Cummings GX8328 W Inmate Signature		4. Counselor's Name:	
		5. Unit Manager's Name:	
6. Work Assignment:		7. Housing Assignment: E51027	
8. Subject: State your request completely but briefly. Give details.			
Because of the inordinate delay regarding the second level appeal of grievance number 866682, I am moving forward to the Chief Grievance Officer at Central Office. I've written you several requests but you've never responded to my appeal filed on 5/22/20.			
This is a common thing regarding my appeal to you, either you are ignoring my appeal or staff is sabotaging my appeal.			
9. Response: (This Section for Staff Response Only)			
To DC-14 CAR only <input type="checkbox"/>		To DC-14 CAR and DC-15 IRS <input type="checkbox"/>	

STAFF MEMBER NAME _____ DATE _____

Print Signature

DC-804
Part 1COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS

FOR OFFICIAL USE

GRIEVANCE NUMBER

OFFICIAL INMATE GRIEVANCE

TO: FACILITY GRIEVANCE COORDINATOR	FACILITY: FPA	DATE: 6/29/20
FROM: (INMATE NAME & NUMBER) William Cummings 6X8328	SIGNATURE OF INMATE: William Cummings	
WORK ASSIGNMENT:	HOUSING ASSIGNMENT: E11027	

INSTRUCTIONS:

1. Refer to the DC-ADM 804 for procedures on the inmate grievance system.
2. State your grievance in Block A in a brief and understandable manner.
3. List in Block B any action you may have taken to resolve this matter. Be sure to include the identity of staff members you have contacted.

A. Provide a brief, clear statement of your grievance. Additional paper may be used, maximum two pages (one DC-804 form and one one-sided 8½" x 11" page). State all relief that you are seeking.

Continued I've been to 7 prisons and this is the only prison where an inmate is put searched while in a smock. At Schuylkill, when admitted into the POC, the strip search is done in the POC room and the inmate is not put searched afterward. At SCI-Carlisle, when admitted into the POC, the strip search is done in the POC strip cage and the inmate is walked to the POC in med suit and at no time is the inmate put searched. At SCI-Greentree, when it was opened, the strip search was done in the POC and the inmate was not put searched afterward. At SCI-Payette, the strip search is done the same way as above mentioned, and the inmate is not put searched afterward. This is the only prison that does this and from the inmates I've spoken to, they've never been put searched after being admitted into the POC at Schuylkill while still in a smock. So how come I'm the only prisoner that has happened to? This is done as a deterrent so I want ask for help when I'm going through

B. List actions taken and staff you have contacted, before submitting this grievance.

Shift Commander Capt. William Arnold, 1st Lt. P. Blaser and BMV Lt. O. McCoy & J. Simpson. When this happened and everywhere the recorded camera transcripts to that in the BMV, all these officials are sanctioning my treatment at mental health crisis.

Your grievance has been received and will be processed in accordance with DC-ADM 804.

Signature of Facility Grievance Coordinator

Date

WHITE Facility Grievance Coordinator Copy

CANARY File Copy

PINK Action Return Copy

GOLDEN ROD Inmate Copy

DC-ADM 804, Inmate Grievance System Procedures Manual
Section 1 – Grievances & Initial Review

Attachment 1-A

Issued: 1/26/2016
Effective: 2/16/2016

2 of 2 pages

Attachment 1-A

Dear Clerk, 6/3/21

Please make copies of the complaint and send it to the Defendants, with the waiver. I've been threatened the complaint won't make it to you guys and they'll search my cell so I don't have a copy, so I'm sending you everything I have, exhibits everything. Please help, they're evil in here as you'll read. Please help. Charge me later if you need to for the copies. Thank you and God bless you. Please be careful, Sgt. Scarpatti is dangerous and threatened me and yall.

William Cummings

William Cummings GX8328
~~PO BOX~~ 1111 Altamont Blvd
Frackville, PA 17214
(legal mail)

RECEIVED
SCRANTON

JUN 07 2021

PER


DEPUTY CLERK

Clerks
USDC
PO BOX
Scranton